

Message Text

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ORIGIN EA-09

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DRAFTED BY EA/IMS:ADORNHEIM:LMG

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FM SECSTATE WASHDC

TO AMEMBASSY JAKARTA

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E.O. 11652: N/A

TAGS: ENRG, ID

SUBJECT:PACIFIC LIGHTING LNG CONTRACT

1. JUNE 11 FEDERAL REGISTER CARRIED TEXT OF JUNE 4 FPC ORDER AFFECTING PURCHASED LNG COST ADJUSTMENT (PGA) CLAUSE PROPOSED BY DISTRIGAS CORPORATION, WHICH IS PLANNING TO IMPORT ALGERIAN LNG FOR RESALE IN MASSACHUSETTS. TERMS OF FPC ORDER WILL CERTAINLY AFFECT ADVERSELY PERTAMINA'S CONTRACT WITH PACIFIC LIGHTING, AS PERTAMINA'S COUNSEL (VINSON, ELKINS, SEARLS, CONALLY AND SMITH OF HOUSTON) HAS ADVISED TIRTO UTOMOW BY LETTER OF JUNE 22.

2. FPC ORDER NOTED THAT UNDER USUAL PGA CLAUSE APPLICATIONS, FPC IS ADDRESSING SITUATIONS IN WHICH IT HAS CONTROL OVER RATES CHARGED BY SUPPLIER AND PIPELINE AND CAN THEREFORE ASSURE THAT COSTS WHICH ARE TO BE FLOWED THROUGH UNDER A PGA CLAUSE WILL BE JUST AND REASONABLE. IN DISTRIGAS/SONATRACH CASE THE SUPPLIER'S CHARGES WOULD BEYOND FPC'S CONTROL. SINCE COMMISSION'S REGULATIONS

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PROHIBIT USE OF AUTOMATIC ADJUSTMENT PROVISIONS SUCH AS

THOSE PROPOSED BY DISTRIGAS, UNLESS THESE CAN BE WAIVED

FOR GOOD CAUSE (AND FPC FOUND NONE), FPC REJECTED
DISTRIGAS' PROPOSED PURCHASED LNG COST ADJUSTMENT CLAUSE.

3. VINSON ELKINS LETTER TO TIRTO CONCLUDED FROM FPC
ORDER THAT "IN ALL PROBABILITY, FPC WILL INSIST UPON
EITHER RETAINING RIGHT TO REVIEW ALL INCREASES IN LNG
COSTS (TO PACIFIC LIGHTING) OR UPON ESCALATIONS BEING
FIXED BY A SPECIFIC PERCENTAGE OR DOLLAR AMOUNT." VINSON
ELKINS FURTHER ADVISED THAT PL WOULD NOT ACCEPT FPC
AUTHORIZATION TO IMPORT AND SELL LNG IF IT WERE PREVENTED
FROM PASSING INCREASED LNG COSTS THROUGH AUTOMATICALLY,
AND THAT THEREFORE PERTAMINA COULD EXPECT A PL ATTEMPT
TO SEEK PERTAMINA AGREEMENT TO SOME SORT OF CEILING UPON
PRICE ESCALATIONS. KISSINGER

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